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ABSTRACT

An examination is made into the legislative framework under which public sector higher education faculty bargaining occurs, and the potential application of the Yeshiva decision to these statutes. The statutory frameworks under which faculty collectively bargain are listed and reviewed in light of the Yeshiva decision; they are ranked in descending order from maximum to minimum protection and are as follows: (1) separate bargaining statutes for college and university faculty; (2) statutory designation of faculty bargaining units; (3) college faculty designated as public employees; (4) college designated as employer; (5) inclusion of managers and/or supervisors as eligible for coverage; and (6) absence of/or prohibitive legislation. Three tables are produced which provide information on: states having statutorily defined bargaining units; states where the definitions of employees includes faculty, thereby conferring their right to bargain; and states where the college/university is designated as public employer. (GLR)

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NEWSLETTER
NATIONAL CENTER FOR THE STUDY OF COLLECTIVE BARGAINING IN HIGHER EDUCATION AND THE PROFESSIONS

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Part I: Legislative Analysis

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Part I: Legislative Analysis

FACULTY BARGAINING IN HIGHER EDUCATION

Collective bargaining rights for private sector employees have traditionally been viewed as more expansive and protective than their public sector counterparts. The right to strike under the National Labor Relations Act[1] (hereinafter the "NLRA" or the "Act") is often cited as dispositive of this point. It is, therefore, unusual that public employees have stronger rights to bargain collectively than those in the private sector. Nowhere is this disparity more pronounced than in the field of collective bargaining in higher education (hereinafter "CBHE"). With the decision of the United States Supreme Court in NLRB v. Yeshiva University,[2] (hereinafter Yeshiva) that the faculty at Yeshiva University were "managerial employees" and therefore, had no statutory right to bargain under the protection of the NLRA, a devastating blow to private sector faculty unionism was delivered. Although Yeshiva has had a substantial negative impact on private sector academic collective bargaining, its influence on public sector CBHE, thus far, has been minimal. There are indications that this may be changing.

This article examines the legislative framework under which public sector higher education faculty bargaining occurs, and the potential application of the Yeshiva decision to these statutes, a heretofore unexplored area. One cannot evaluate public sector labor legislation without an appreciation of its relationship to the NLRA and the role the Act has played in its development. If state legislation is modeled after, and in some instances, is identical to the NLRA logically a Yeshiva-like analysis also would preclude bargaining rights on public campuses. However, to date state labor boards have not been inclined to follow Yeshiva. The legality of public sector higher education faculty bargaining appears to be secure and is increasing, even though the federal courts have frequently declared the same type of relationships illegal in the private sector.

Private sector CBHE is regulated by the NLRA[3] which excludes "managerial"[4] and "supervisory"[5] employees" from coverage. Faculty at private institutions who are deemed managerial are not forbidden from organizing and bargaining on a voluntary basis, however, the claims of the parties cannot be enforced under the Act. Yeshiva concerned the right of faculty at private institutions to engage in collective bargaining under the protection of the NLRA. The issue of nonmanagerial and nonsupervisory personnel to bargain was not in dispute. At issue was the designation of faculty as "managerial" or "supervisory employees" and their resulting exclusion from NLRA protection. The exclusion of "supervisors" and "managers" is not a new question nor does it necessarily reflect the introduction of a change in labor law. In essence, Yeshiva represents the extension of the NLRA managerial and supervisory exclusions to a new group, college faculty. The exclusions themselves are well-rooted in private sector labor law and while academics may claim that the interpretation is new, "managerial employees" have never enjoyed the protection of the NLRA. The same is true of "supervisory employees" who have been excluded from coverage of the Act since the enactment of the Taft-Hartley Amendments. Yeshiva did not alter the rights of "managers" and "supervisors"; it merely found that faculty were within those groups.

During the decade prior to Yeshiva, the Board had routinely certified faculty unions at private colleges. When Yeshiva was decided, 88 private colleges and universities had NLRB-certified unions

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Editor's Note: This article appeared in the Journal of Collective Negotiations in the Public Sector-V19(1) "The Impact of NLRB v. Yeshiva University on Faculty Unionism;" J. M. Douglas. Permission to reprint is gratefully acknowledged. This research will appear in abbreviated form in two issues of the Newsletter, Vol. 18, Nos. 3 and 4. This issue is devoted to the legislative analysis, while the subsequent Newsletter is devoted to the legal issues.

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or had voluntarily recognized faculty bargaining units. Of that original group, 57 are still bargaining, 19 have had their faculty unions decertified, seven bargaining agents have voluntarily relinquished their right to bargain and five have closed. Subsequent to the decision, faculty at 33 institutions have unionized. Of these, 31 were public while only two were private. During the same time frame, faculty at 14 additional private colleges have attempted unionization but have been thwarted by Yeshiva.[5]

RESEARCH BACKGROUND

Assuming arguendo, that if Yeshiva is good law, why has it not been applied in the public sector? What accounts for the dramatic difference between bargaining rights of faculty at public and private colleges? Are there legal, legislative or institutional factors that explain why the doctrine has not spread to the public sector? The right to bargain is statutorily protected and it is within the legislation that we must look for answers to these questions.

In order to fully assess the impact of the Yeshiva doctrine on public sector CBHE, all state legislation enacted through 1988 was analyzed with respect to faculty bargaining rights. The data was limited to the 27 states in which faculty bargain pursuant to statute. A categorical system was developed to determine the extent of these rights. Each statute was analyzed in its entirety and classified in accordance with the following structural provisions. The existence of separate legislation for college and university faculty and/or the statutory designation of faculty bargaining units were the first two categories identified. The designation of "public employee" status for faculty or the designation of colleges as "public employers" were the next characteristics considered. The inclusion of "managers" and/or "supervisors" as "public employees" eligible for coverage, a theme central to Yeshiva, was assessed. The final classification was those jurisdictions that either prohibited all public sector collective bargaininging or where bargaining was done in the absence of legislation.

All categories were studied to ascertain faculty bargaining protection from the likelihood of Yeshiva-like claims. Protection in this sense is viewed as coverage before a labor board or a state agency concerning the right to bargain legislative frameworks for faculty bargaining which vary, ranging from the enactment of separate statutes to absolute prohibitions. While difficult to measure the extent of legislative safeguards for faculty bargaining, it is apparent that a broad spectrum exists.

Acknowledging the absence of a traditional research design, i.e., equivalent experimental and control groups of public and private colleges, and noting that there are governance mechanisms and institutional maturity variables that cannot be controlled, this study is based on the application of labor law and legislative principles found in both the private and public sector. While the primary objective of this research was to evaluate the application of Yeshiva to public sector CBHE, an analysis legislation pertaining to the status of faculty as managers and supervisors was conducted.

A study of public sector Yeshiva case law is included. The number of claims adjudicated thus far is limited, however, the questions raised therein are of interest. Each was analyzed in detail with consideration given to the application of federal labor law to state statutes. Strategies to reverse or limit the Yeshiva doctrine were developed with suggestions set forth for their implementation.

PUBLIC SECTOR COLLECTIVE BARGAINING LEGISLATION

Faculty at public colleges and universities enjoy various forms of statutory protection. The vast majority of CBHE occurs under statewide generic bargaining legislation in which faculty have the same rights as other public employees, and any Yeshiva question, or managerial or supervisory claim, must be litigated within the context of the overall statute.

Set forth below are the statutory frameworks under which faculty collectively bargain. They are ranked in descending order from maximum to minimum protection. They are not mutually exclusive as a single statute might include more than one framework. In some categories, distinctions are minimal.

I. Separate bargaining statutes for college and university faculty
II. Statutory designation of faculty bargaining units
III. College faculty designated as public employees
IV. College designated as employer
V. Inclusion of managers and/or supervisors as eligible for coverage
VI. Absence of/or prohibitive legislation

I. SEPARATE STATUTES FOR COLLEGES AND UNIVERSITY FACULTY

Separate legislation for faculty collective bargaining, (the maximum degree of protection), is found in three states, California,[6] Maine,[7] and Washington (community colleges).[8] Faculty in Illinois[9] bargain pursuant to a separate statute which covers all education employees at public and secondary schools, state colleges and universities. Each of these statutes sets forth the affirmative obligation to bargain collectively. This category offers the greatest degree of protection from the Yeshiva doctrine. The existence of a separate statute generally offers more than recognition of collective bargaining rights. It can also establish rules, regulations, impasse procedures and related mechanisms adapted to the academic setting within the labor relations process. Administrative agencies with responsibility for the implementation and adjudication of the statute are also established.

Two states have enacted legislation for faculty bargaining that alleviates the supervisory and managerial issue. Although the California statute was enacted prior to Yeshiva, the managerial issue was

eliminated by precluding a finding of managerial status based on a faculty member's role as a department chair or program head. The Ohio statute, enacted subsequent to Yeshiva, provides that:

> with respect to faculty members of a state institution of higher education, heads of departments or divisions are supervisors; however, no other faculty member or group of faculty members is a supervisor solely because the faculty member or group of faculty members participate in decisions with respect to courses, curriculum, personnel, or other matters of academic policy.[10]

1. CALIFORNIA-HIGHER EDUCATION EMPLOYER-EMPLOYEE RELATIONS ACT (HEERA)

HEERA provides bargaining rights for faculty in the University of California (UC) and the California State University (CSU) systems. Community college faculty are covered under Education Employment Relations Act (EERA).[11] Under HEERA, the university is recognized as a "public employer" and the faculty as "public employees". The statute excludes "managerial employees" from bargaining and limits "supervisory employees" to autonomous bargaining units.

HEERA acknowledges the unique function of faculty governance. Although the statute was enacted prior to Yeshiva, the managerial question was eliminated. The right to bargain cannot be abridged because of managerial status if said status is derived from participating in matters of educational policy.

> No employee or group of employees shall be deemed to be managerial employees solely because the employee or group of employees participate in decisions with respect to courses, curriculum, personnel and other matters of educational policy. A department chair or head of a similar academic unit or program who performs the foregoing duties primarily on behalf of the members of the academic unit or program shall not be deemed a managerial employee solely because of such duties.[12]

The definition of "supervisory employee" is similar to that contained in Sec. 2(11) of the NLRA; however, an exception is noted with respect to department chairs whose right to representation may not be limited if in the performance of their supervisory duties, they are functioning on behalf of a collective body. The statute further provides that with respect to chairs:

> "...that there shall be a rebuttable presumption that such an individual appointed by the employer to an indefinite term shall be deemed to be a supervisor. Employees whose duties are substantially similar to those of their subordinates shall not be considered to be supervisory employees.[13]

2. MAINE — UNIVERSITY OF MAINE SYSTEM LABOR RELATIONS ACT

The Maine statute provides for faculty collective bargaining for "employees" of the University of Maine, the Vocational-Technical Institute, state schools for practical nursing and the Maine Maritime Academy. The university is recognized as a "public employer" and the faculty as "public employees". Units are statutorily defined with supervisors entitled to bargain, however, they are restricted to an autonomous statewide unit. "Managerial employees" are not included under the definition of "employee" and are excluded from bargaining by statute. Other exclusions include deans, directors and "confidential employees" whose duties relate to labor relations.

3. WASHINGTON — COMMUNITY COLLEGE NEGOTIATIONS BY ACADEMIC PERSONNEL ACT

The Washington negotiations statute is specific to public community colleges. The definition of faculty is broad-based and is subsumed under the definition "academic employee". Teachers, counselors, librarians, and department heads are afforded negotiations rights but exclusions exist for "administrators". The definition of "administrators" combines elements of both management and supervisory functions: "any person employed either full- or part-time by the community college district and who performs administrative functions at least fifty percent or more of his assignments, and has responsibilities to hire, dismiss, or discipline other employees..."[14] Administrators may, however, be included in rank-and-file units upon a majority showing by both groups.

4. ILLINOIS — EDUCATIONAL LABOR RELATIONS ACT

The Illinois statute grants the right to bargain to "educational employees" at public and secondary schools, faculty at public community college districts, state colleges and the state university. College and university faculty are included under the definition of "educational employees" while "supervisors" and "managers" are specifically excluded from coverage.

In defining "supervisors", the statute uses the NLRA standard but includes the following qualifier: "The term 'supervisor' includes only those individuals who devote a preponderance of their employment time to exercising authority."[15] A "managerial employee" is defined as "any individual who is engaged predominantly in executive and management functions and is charged with the responsibility of directing the effectuation of such management policies and practices."[16] Both definitions recognize

TABLE ONE

STATUTORILY DEFINED BARGAINING UNITS

STATE	UNIT
CONNECTICUT	Separate systemwide units are provided for the faculties of the University of Connecticut, the state colleges, community colleges, the state technical colleges and the state vocational schools within the Connecticut State Employee Relations Act.[a] Non-faculty professional staff are included in faculty units.
HAWAII	One systemwide unit for faculty and one for non-faculty at the University of Hawaii and the community college system.[b]
MAINE	Seven units, including one for faculty and another for professional and administrative staff, in the University of Maine system. Separate units for the faculty at the Maine Maritime Academy, the vocational-technical institutes and schools for practical nursing.[c]
MINNESOTA	Twelve units are designated for the Univ. of Minnesota system, two of which contain faculty; the faculty at the Duluth and Twin Cities campuses. Faculty at Morris, Crookston and Waseca campuses may be included in the Duluth unit if the majority of the three institutions so choose. There is also a state university instructional unit, a community college instructional unit and a state university administrative unit.[d]
OHIO	Units may not be certified which contain faculty from more than one institution and no unit may be certified "...where such designation would be inconsistent with the accreditation standards or interpretations of such standards governing such institutions of higher education...".[e]

FOOTNOTES

a. Connecticut State Employee Relations Act, Conn. Gen. Stat., tit. 5, Sec. 5-270, Sec. 5-275 et. seq. (1975).

b. Hawaii Collective Bargaining in Public Employment Act, Hawaii Rev. Stat. Chap. 89, Sec. 89-1, 89-6, et. seq. (1970).

c. University of Maine/Maine System Labor Relations Act (Me. Rev. Stat. tit. 26, Ch. 12, Sec. 1021, et. seq. (1984), Sec. 979-E).

d. Minnesota Public Employment Labor Relations Act, Minn. Stat. Ann., Chap. 179A, Sec. 179A.01, 179A.09 et. seq. (1985).

e. Ohio Collective Bargaining Law, Ch. 4117, Ohio Rev. Code, Sec. 4117.01(3) et. seq. (1984), Sec. 4117.06.

the concept of faculty governance and the need to distinguish faculty from other employees.

II. STATUTORY DEFINITION OF FACULTY BARGAINING UNITS

The statutory designation of a faculty bargaining unit, while not considered absolute in terms of creating a right to bargain, is looked upon as significantly strengthening it. The legal obligation of the employer to bargain with the designated unit is enforceable by the appropriate administrative agency. The configuration of the unit with respect to individual job titles and classifications may be frequently contested, however, the fundamental right to bargain is not. Statutorily designated faculty bargaining units are found in five states; four omnibus collective bargaining bills, and one in a separate faculty bargaining law. Table One lists the faculty bargaining units designated by statute.

III. PROFESSOR DEFINED AS "PUBLIC EMPLOYEE"

Collective bargaining statutes grant the right to bargain to only those individuals designated as "employees". Therefore, the identification of faculty as "employees" confers a right to bargain that is legislated, not inferred. Two states, Minnesota and Vermont, and the District of Columbia, in addition to the four states with separate faculty bargaining legislation, define faculty as "employees" under their enabling legislation.

Twenty states use a generic definition of employee. This definition specifies that "public employees" are "any employee of a public employer". In this category, faculty would be presumed to be "employees" unless they are excluded under a managerial or supervisory finding. The designation of "public employee" is frequently more inclusive than just faculty, i.e., maintenance and support staff may be included. Statutory recognition as "employees" eliminates the potential for litigation over this issue. Table Two sets forth a listing of statutory definitions of employees by state.

IV. COLLEGE DESIGNATED AS "PUBLIC EMPLOYER"

The designation of a college or university as a "public employer" is found in 18 state statutes. While not as protective of faculty bargaining as those states in which separate legislation is found, this system is considered highly supportive of bargaining rights. "Employers" designated as such by statute incur certain obligations pursuant to legislation and are placed under the jurisdiction of various labor relations agencies for the purpose of collective bargaining. The critical element of designating colleges as "public employers" is related to the standard definition of "public employees" as "any employee of a public employer".

The most frequently specified higher education "employers" are the Board of Trustees or Regents. It should be noted that while Boards of Trustees or Regents are identified as "employers", for purposes of negotiation this power is often delegated to the state office of employee relations.

Nine states do not identify colleges or universities as "public employers", however, the inference is such that unless a specific legislative exemption is noted, "public employer" status is presumed. These states are Delaware, Iowa, Kansas, Michigan, Nebraska, New Jersey, Rhode Island, South Dakota, and Wisconsin. Questions concerning "public employer" status have arisen due to funding arrangements in certain states.[17]

While perhaps not as supportive as the dual designation of faculty as "employees" and colleges as "employers", the identification of colleges as "employers" generally confers on its "employees" similar bargaining rights to faculty protected by separate legislation. States that specifically define colleges as "employers" and use a generic definition of employee include Alaska, Connecticut, Florida, Hawaii, Massachusetts, Montana, New Hampshire, New York, Ohio, Oregon and Pennsylvania. Dual designation of faculty as "employees" and colleges as "employers" is found in California, Illinois, Maine, Minnesota, Vermont and Washington, as well as the District of Columbia. Table Three lists those states with statutory designation of colleges and universities as "public employers".

V. INCLUSION OF "MANAGERS"/"SUPERVISORS" AS ELIGIBLE FOR COVERAGE

Although most statutes are silent with respect to bargaining rights for "managerial employees", silence cannot be construed as a presumption of inclusion. While arguments can be made that legislative silence reflects a broad scale legal assumption in favor of coverage, absent legislative or bargaining history, or past practice to the contrary, the argument most likely will fail.[18] No state statute specifically includes "managers" as eligible for coverage. Furthermore, "managers" who are not "supervisors" and who may or may not have any managerial authority or nexus with respect to labor relations often are also prohibited from bargaining.

The record with respect to bargaining rights for "supervisors" is far different from that of "managers". While Yeshiva focused on the "managerial" role of faculty, the question of their "supervisory" role has also been addressed. A comprehensive analysis of public sector bargaining legislation not limited to CBHE found that eight states excluded "supervisors" from coverage, while 14 restricted them to autonomous bargaining units. Seventeen of these states use the standard definition of "supervisors" as found in Sec. 2(11) of the NLRA, while the remaining ten did not define them.[19]

VI. ABSENCE OF/OR PROHIBITIVE LEGISLATION

States may permit CBHE on a voluntary basis whereby the parties are free to bargain without statutory protection. There are faculty unionists who have argued that they prefer legislative silence rather than a nonsupportive statute which does not offer protection for broad scale faculty bargaining. The absence of supportive legislation or prohibition on bargaining creates employment relationships based on political strength. Managerial and supervisory "employees" may or may not bargain, depending on the understanding between the parties. Legislative silence is less harmful and less restrictive for unions than a statutory prohibition. Once a bargaining agreement is signed, it can be enforced during its term through a normal breach of contract action.

Texas, North Carolina and Virginia, have enacted statutory bans on either public sector collective bargaining or strikes by state employees. The Texas Public Employee Collective Bargaining Ban statute declares public sector collective bargaining and strikes to be against public policy.[20] North Carolina has enacted a Public Employee Membership in Labor Unions Law which prohibits public employees

TABLE TWO

DEFINITION OF EMPLOYEES

State	Generic Def. of Employee	Specific Def. of Employee
Alaska	x	
California		"employee of Regents of University of California or Board of Trustees of the California State University & College".
Connecticut	x	
Delaware	x	
Distr. of Columbia		"educational employees".
Florida	x	
Hawaii	x	
Illinois		"any employee employed full/part time by educational employer".
Iowa	x	
Kansas	x	
Maine		"regular employees...who occupies a position that exists on a continual basis (within University of Maine or Maine Maritime Academy)".
Massachusetts	x	
Michigan	x	
Minnesota		"employees of community colleges & state university system".
Montana	x	
Nebraska	x	
New Hampshire	x	
New Jersey	x	
New York	x	
Ohio	x	
Oregon	x	
Pennsylvania	x	
Rhode Island	x	
South Dakota	x	"state employee means any individual employed by Vermont State Colleges".
Vermont		
Wisconsin	x	"'academic employee' means any teacher, counselor, librarian or dept. head who is employed by any community college district whether full- or part-time".
Washington		

from becoming affiliated with any labor organization wishing to engage in collective bargaining.[21] Virginia has enacted a public sector strike ban for all public employees.[22] In these jurisdictions, although collective bargaining occurred on a local or regional basis, it is conducted without statutory protection thus making Yeshiva moot. The magnitude of this activity is beyond the scope of this paper.

TABLE THREE

STATE	COLLEGE/UNIVERSITY DESIGNATED AS EMPLOYER
ALASKA	Board of Regents of the University of Alaska.
CALIFORNIA	Board of Regents of the University of California Board of Trustees of the California State University & Colleges.
CONNECTICUT	Board of Trustees of a state-owned or supported college or university and branches thereof.
DISTRICT OF COLUMBIA	Board of Trustees of the University of the District of Columbia.
FLORIDA	Board of Regents with respect to faculty...within the state university system... Board of trustees of a community college...with respect to all employees of the community college.
HAWAII	Board of Regents of the University of Hawaii.
ILLINOIS	...the governing body....., public community college district or state college or university.
MAINE	University of Maine, Maine Maritime Academy.
MASSACHUSETTS	...respective Board of Trustees of a community state college or state university.
MINNESOTA	Board of Regents of the University of Minnesota.
MONTANA	Commissioner of higher education shall represent the public employer in collective bargaining.
NEW HAMPSHIRE	The state university system.
NEW YORK	Any government entity operating a....college or university.
OHIO	State institution of higher learning.
OREGON	Community colleges.
PENNSYLVANIA	....educational....institution receiving grants or appropriations from government.
VERMONT	Vermont State Colleges, represented by the chancellor or his duly authorized representative(s).
WASHINGTON	"Board of trustees" is equated with "employer".

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FOOTNOTES

1. National Labor Relations Act, P.L. 198, 74th Congress (1935).
2. NLRB v. Yeshiva University, 444 U.S. 672 (1980).

3. The definition of "manager" was developed by the NLRB and set forth in Palace Laundry Dry Cleaning, 75 NLRB 320 (1947). The U.S. Supreme Court affirmed this definition in NLRB v. Bell Aerospace Company Division of Textron, Inc., 416 U.S. 267 (1974). "Managerial employees" who have no bargaining rights must be distinguished from confidential employees who, in the absence of a labor nexus, may bargain. In Hanna Mining Company et al v. District 2, Marine Engineers Beneficial Association, AFL-CIO, et al, 382 U.S. 181 (1965), the Supreme Court reaffirmed the exclusion of maritime supervisors from the protection of the NLRA. The Court held that "...activity designed to secure organization or recognition of supervisors cannot be protected, arguably or otherwise, by Section 2(3) of the NLRA governing right of employees as to organization and collective bargaining...." Supervisors may bargain on a voluntary basis.

4. While Yeshiva addressed the issue of faculty as managerial employees, the protection and right to bargain for supervisory employees was raised in subsequent cases. In Trustees of Boston University v. NLRB, 555 F.2d 301 (1st Cir. 1978), Enforcing 228 N.L.R.B., Vacated 445 U.S. 912 (1980), the Board found all full-time faculty above the rank of instructor to be supervisors within the meaning of Sec. 2(11) of the Act.

5. For a complete demographic analysis see, Joel M. Douglas with Beth Genya Cohen, Directory of Faculty Contracts and Bargaining Agents in Institutions of Higher Education, vol. 15 (New York: NCSCBHEP, Baruch College, City University of New York, 1989).
6. California Higher Education Employer-Employee Relations Act, Government Code Annotated, Title 1, Division 4, Sec. 3560, et. seq. (1978).
7. University of Maine/Maine System Labor Relations Act (Me. Rev. Stat. tit. 26, ch. 12, Sec. 1021, et. seq. (1984)).

8. State of Washington Community College Negotiations By Academic Statute Senate Bill No. 5225, Chapter 314, Laws of 1987.
9. Illinois Educational Labor Relations Act, Illinois Public Act 1014.
10. Ohio Collective Bargaining Law, Ch. 4117, Ohio Rev. Code, Sec. 4117.01(3) et. seq. (1984).
11. California Education Employment Relations Act, Government Code Annotated, Title 1, Division 4, Sec. 3540, et. seq. (1975).

12. See Note 6 at Sec. 3562 (j).
13. Ibid at Art. 6.5 (Sec. 3580.3).
14. See Note 8 at Sec. 2(2).
15. See Note 9 at Sec. 2(g). Also see Board of Regents of State of Illinois, PERI 1069 (1986).
16. See Note 9 at Sec. 2(o).

17. Arguments have been raised concerning public/private funding status of the University of Vermont. The VEA/NEA lobbied for the successful passage of legislation which designates the University of VT as a "public employer" under the jurisdiction of the Vermont Labor Board. See VT State Employees Labor Relations Act, Chapter 27, Title 3, VSA, Sec. 902 (7) (Amended 1988). The university maintained that, for the purpose of labor relations, they were subject to the jurisdiction of the NLRA. An appeal is expected by the university. Similar arguments were raised concerning the public/private funding status at the University of Pittsburgh and Temple University. These issues have been resolved through legislation with the determination that both are public and under the jurisdiction of the Penn. Public Employees Relations Act.

18. See In the Matter of the University of Alaska, Case No. UA 80-2 (Alas. Labor Relations Board, 1981) at p. 7. The Alaska Labor Relations Board held that absent a specific managerial exclusion, they would not infer that one existed and would, if asked, certify an autonomous unit of university managerial employees.

19. Joel M. Douglas, "Collective Bargaining and Public Sector Supervisors: A Trend Toward Exclusion?" Public Administration Review, vol. 47(6): (1987) 485-497.

20. Texas Public Employee Collective Bargaining Ban, Ch. 135, L. (Art. 5154c, Title 83) (1947).
21. North Carolina Public Employee Membership in Labor Unions Act, Ch. 95 Art. 12, Sec. 97-100, Gen. Stat., Ch. 958,L. (1981).
22. Virginia Strikes By State Employees Act, Sec. 40.1-55 and 40.1-57 Code of VA (1970).

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